

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE: NATIONAL FOOTBALL LEAGUE
PLAYERS' CONCUSSION INJURY
LITIGATION

No. 2:12-md-02323-AB

MDL No. 2323

THIS DOCUMENT RELATES TO:

Hon. Anita B. Brody

ACTIONS INVOLVING ANY RIDDELL
DEFENDANT

**RESPONSE OF THE NATIONAL FOOTBALL LEAGUE AND NFL PROPERTIES LLC
TO THE ORDER TO SHOW CAUSE (DOC. NO. 6870)**

The National Football League ("NFL") and NFL Properties LLC (collectively, the "NFL Defendants") submit this Response to the Court's July 11, 2016 Order to Show Cause why the Court should not suggest remand of the claims against the Riddell Defendants to the Judicial Panel on Multidistrict Litigation (the "MDL Panel") at this time. (Doc. No. 6870.)

ARGUMENT

As an initial matter, the NFL Defendants respectfully submit that the Court may wish to defer decision on whether to suggest remand of claims against the Riddell Defendants until after the Class Action Settlement (the "Settlement") finally approved by the Court on April 22, 2015 becomes effective. Settlement Class Members who objected to the Settlement have until August 30, 2016 to seek certiorari to the United States Supreme Court. In the unlikely event that the Supreme Court were to grant certiorari, and in turn decide in favor of any appellants, this Court may again oversee MDL proceedings involving thousands of plaintiffs who sued both the NFL Defendants and Riddell Defendants. The interests of judicial economy counsel in favor of taking no action on the remand issue until the Settlement becomes effective.

Second, if the Court determines that it will suggest remand of the claims against the Riddell Defendants to the MDL Panel, the NFL Parties respectfully submit that the Court should first order the severance of any claims against the Riddell Defendants from any claims against the NFL Parties in order to preserve the continuing jurisdiction of the Court over the Opt Out claims against the NFL Parties. (*See, e.g.*, Order at ¶ 1, Doc. No. 6706.) Severance would ensure that the MDL Panel may consider the appropriate venue for claims against the Riddell Defendants without disturbing the MDL treatment of the pending actions against the NFL Parties.

Finally, the NFL Defendants respectfully submit that the actions against the Riddell Defendants should remain in this Court at this time to ensure that any discovery against the NFL Defendants in the opt-out cases is coordinated, as necessary, with this Court's determination of the appropriateness of any third-party discovery in the Riddell cases against the NFL Defendants. In the absence of such coordination, the NFL Defendants may be subjected to conflicting third-party discovery requests from courts around the country, both state and federal, which will prejudice the NFL Defendants and may undermine this Court's ability to control any discovery against the NFL Defendants in the opt-out cases.

CONCLUSION

For the reasons set forth above, the NFL Defendants' respectfully submit that the Court should not suggest remand of the claims against the Riddell Defendants to the MDL Panel at this time.

Dated: July 27, 2016

Respectfully submitted,

/s/ Brad S. Karp

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Certificate of Service

On July 27, 2016, I electronically filed a copy of the foregoing document through the CM/ECF system for the United States District Court for the Eastern District of Pennsylvania, which will send a notice of electronic filing to all counsel of record and make it available for viewing and downloading from the CM/ECF system.

/s/ Brad S. Karp _____
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